

REMARKS

This amendment pursuant to 37 C.F.R. § 1.111 is being submitted in response to the Official Action mailed September 25, 2006. In view of the above claim amendments and the following remarks, reconsideration and allowance of the application is respectfully requested.

Independent Claims 1, 22, 30, 32 and 36 have been amended to more particularly point out and distinctly claim the subject matter Applicant regards as the invention. In particular, the claims have been amended to define the second investment as including an investment in income-producing real property. This was disclosed in original Claim 34 and at page 15, lines 8 – 12 of the specification and does not introduce new matter.

Claims 7 and 26 have been cancelled and Claims 6, 15, 21 and 34 have been amended to conform with the changes to the independent claims. In addition, Claim 6 has been amended to replace terms lacking antecedent basis with language supported by Claim 1 from which it depends and Claim 9 has been amended to correct a grammatical error. None of the foregoing amendments introduce new matter.

Instead, for reasons which are submitted below, the claims are believed to be in condition for allowance. The amendments are believed to resolve the concerns raised by the Examiner. Accordingly, reconsideration is respectfully requested.

In the Official Action, Claims 1 – 42 were rejected under 35 U.S.C. §102(b) as being anticipated by Frankel, U.S. Patent No. 6,070,151. The Frankel patent was cited as teaching a combined investment implemented by aggregating a plurality of capital contributions from a plurality of independent investors; using the capital contributions to control as a first investment a collateralizable portfolio of securities with a growth objective; obtaining financing collateralized by the portfolio of securities; acquiring a second investment using the financing that is selected for achieving an income-producing objective; and applying a portion of the returns on the second investment to the benefit of the investors; wherein each investor is an investor in the first and second investment combination. The examiner cites the Frankel

patent as a disclosing real estate asset as the second investment that is purchased with financing collateralized by the first investment. This rejection is respectfully traversed in view of the above claim amendments for the reasons set forth hereinafter.

The Frankel patent issued less than one year before the 35 U.S.C. §119(e) priority date of the present application. Accordingly, the present rejection should have been made under 35 U.S.C. §102(a) and not §102(b).

Regardless, the independent claims have been amended to define the second investment as an investment in income-producing real property. The real estate asset the Frankel patent leverages as a second investment with funds obtained by collateralizing a first investment is not real property but Collateralized Mortgage Obligations (CMO's). CMO's can technically be viewed as a real estate asset, but they are not real property.

The present claims are now directed to a method for implementing a combined investment, the method comprising in which a collateralizable first investment is financed to leverage the purchase of income-producing real property. By amending the independent claims to require the second investment to be income-producing real property, the pending claims are no longer anticipated by the Frankel patent under either 35 U.S.C. §102(a) or §102(b). Reconsideration by the Examiner and withdrawal of this rejection is therefore respectfully requested.

Furthermore, the pending claims are also not obvious in view of the Frankel patent under 35 U.S.C. §103(a). There is no teaching or suggestion in the Frankel patent of collateralizing the first investment, mortgages of real property, to purchase income-producing real property, or the advantages obtained therefrom. Instead, the projected mortgage interest and principal cash flows are used to collateralize the issuance of a CMO. There is no teaching or suggestion of the advantages obtained by the presently claimed investment method's financing of a first investment to leverage the purchase of income-producing real property to provide a combined investment with reduced risk and enhanced returns in

Applicant(s): Nicholas Frattalone
Application No. 9/923,161
Page 12

Docket No. P24,256-B USA

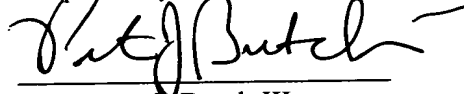
comparison to the individual first and second investments. Accordingly, favorable consideration and allowance of the presently amended claims as non-obvious in view of the Frankel patent under 35 U.S.C. §103(a) is also respectfully requested.

In view of the above claim amendments and the foregoing remarks, this application is in condition for Allowance. Reconsideration is respectfully requested. The Examiner is asked to telephone the undersigned if there are any remaining issues in this application to be resolved.

Finally, if there are any additional charges in connection with this response, the Examiner is authorized to charge applicants' Deposit Account No. 19-5425 therefor.

Dated: March 26, 2007

Respectfully submitted,



Peter J. Butch III
Reg. No. 32,203

Synnestvedt, Lechner & Woodbridge LLP
P.O. Box 592
112 Nassau Street
Princeton, NJ 08542-0592
Telephone: 609-924-3773
Facsimile: 609-924-1811